

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

TO: Mayor & Members of Council
FROM: Stefan Szczerbak, Planner
DATE: March 24th, 2009
RE: DEVELOPMENT PERMIT APPLICATION: DP 07/09 LOB (Cabral)
Applicant: Tony Cabral
Agent: John P. Gallagher
Part Lot 13, Concession 9, McLean Ward, on Lake of Bays
Roll No. 040-013-05900
Civic Address: Vacant – Kelly Road

RECOMMENDATION:

That Council pass the following resolution to **APPROVE** Development Permit Application DP 07/09 LOB (Cabral):

WHEREAS the applicants have submitted Development Permit Application DP 07/09 LOB (Cabral) in order to permit the development of the subject property located in Pt. Lot 13, Conc. 9, McLean Ward, on Lake of Bays (Cabral) (vacant land) (McLean) (040-013-05900);

AND WHEREAS the Council of the Corporation of the Township of Lake of Bays considers the notice of this application to be sufficient;

NOW BE IT RESOLVED THAT the Council of the Corporation of the Township of Lake of Bays hereby **APPROVES** the proposal in accordance with the attached sketch subject to the following conditions:

1. That the works be carried out in accordance with plans submitted: February 6th, 2009 and marked: DP 07/09 LOB;
2. That the permission granted herein shall lapse two years from the start date of construction/development, unless the work for which the permission has been given has been completed. If the works have not been completed by the aforementioned date, an extension to this condition may be required and all on-going and future work must cease until an extension to this permit or a new development permit is obtained. What shall be deemed as "complete" is within the sole discretion of the Township of Lake of Bays;
3. That the Township of Lake of Bays be notified 48 hours prior to the commencement of any works and be notified of the completion of the project;
4. All lighting facilities shall be directed downwards and be required to minimize the impact on lake views, night skies and environmental features; and

5. That a shoreline buffer shall be established and maintained abutting any portion of a shoreline that does not form part of the shoreline activity area. A shoreline buffer shall be a minimum of 15 metres (49.2 ft) in depth measured inland from ordinary water's edge, unless otherwise specified in this by-law. All other provisions of the By-law must be complied with.

ORIGIN:

An application has been received from Tony Cabral, in which the applicant is proposing the development of the subject property.

The lands, which are currently located within the "**Waterfront Residential (WR)**" Development Permit Area are currently vacant. **By-law No. 09-15** (application **Z 01/09 LOB**) was recently passed in order to recognize the lot area of the property, and which would permit the development of the property. The applicant proposes to relocate an existing single family dwelling located on the adjacent property (also owned by the applicants) to these lands.

One of the provisions of **By-law 09-15** was that any development could not proceed until a Development Permit has been issued. The purpose of this requirement is to ensure that the property would generally address the issues presented during the processing of application **Z 01/09 LOB**. Council indicated their desire to review this application in accordance with Section 2.22 of Development Permit By-law No. 04-180.

Site Characteristics and Description:

This vacant parcel is located within the "Waterfront" designation of both the Township and District Official Plans and more specifically located within the **Waterfront Residential "(WR)"** Development Permit Area under By-law No. 04-180.

The subject lands are mainly comprised of existing natural and mature vegetation. The lot is generally level; however it slopes gently in a northerly direction.

Surrounding Uses:

The surrounding lands contain low density residential uses. The boundary for the community of Baysville is located in close proximity (west) to the subject lands.

ANALYSIS:

During their meeting on January 27th, 2009, Council passed By-law No. 09-15 in order to recognize the size of the lot to permit the development of this existing backlot (copies of the staff report and meeting minutes are attached).

During the processing of this application and the statutory public meeting, several planning and site plan related issues were presented for Council's consideration. The issues have been generally summarized into the following points:

- 1) The amount of existing natural vegetation to be removed as a result of the

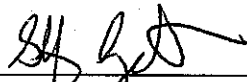
- development proposal;
- 2) How the proposed dwelling would be moved onto the subject lands; and
 - 3) Location of the driveway and septic areas on the property.

Upon review of the attached development plans, staff are satisfied that the development concept follows the general intent of the Official Plan together with the applicable provisions in the Development Permit By-law. It is noted that this development proposal is not seeking variation to any of the applicable By-law standards.

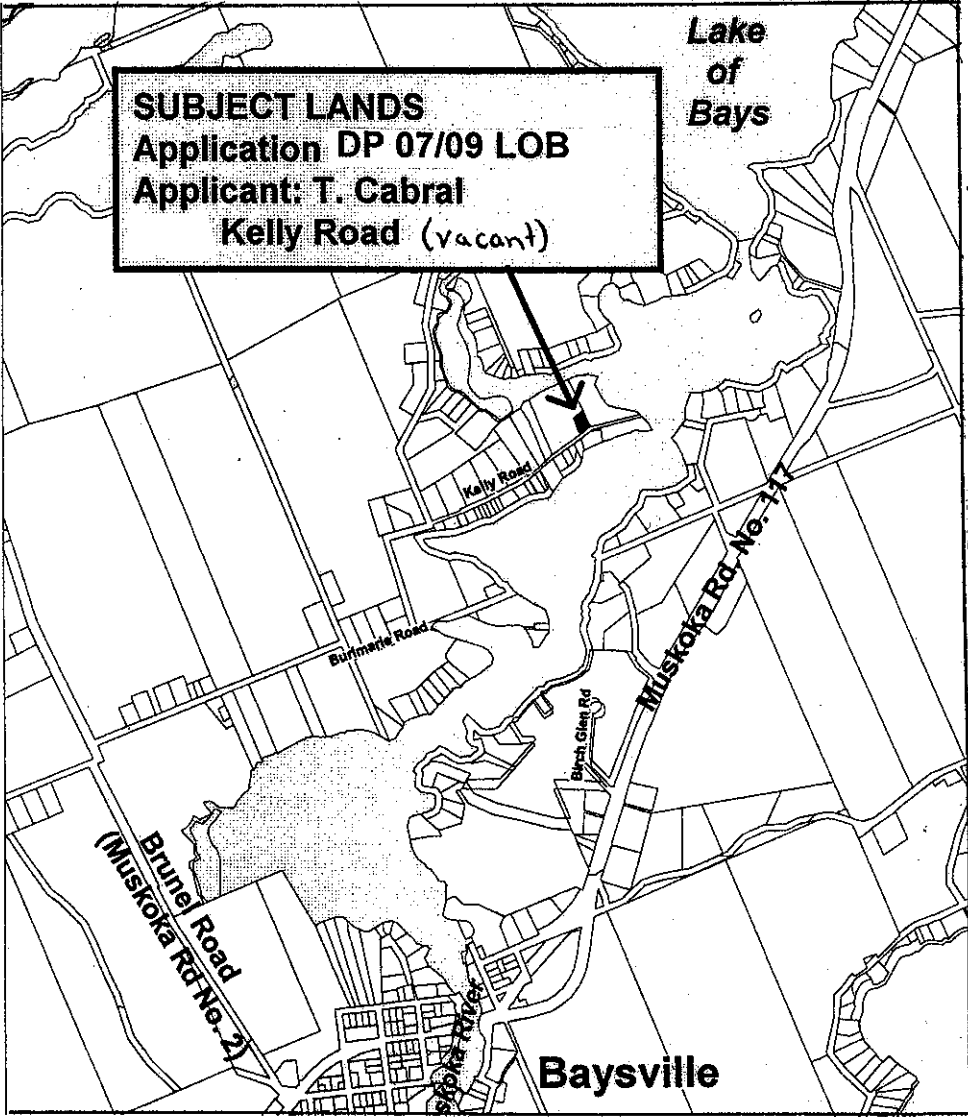
Finally, details respecting the moving of the dwelling have been requested; however have not been presented to the Township prior to the completion of this report.

In view of the foregoing, staff have no concerns with the approval of this application and feel that the proposal generally conforms to the intent and purpose of the Township's Official Plan and complies with the general intent and purpose of the Development Permit By-law No. 04-180.

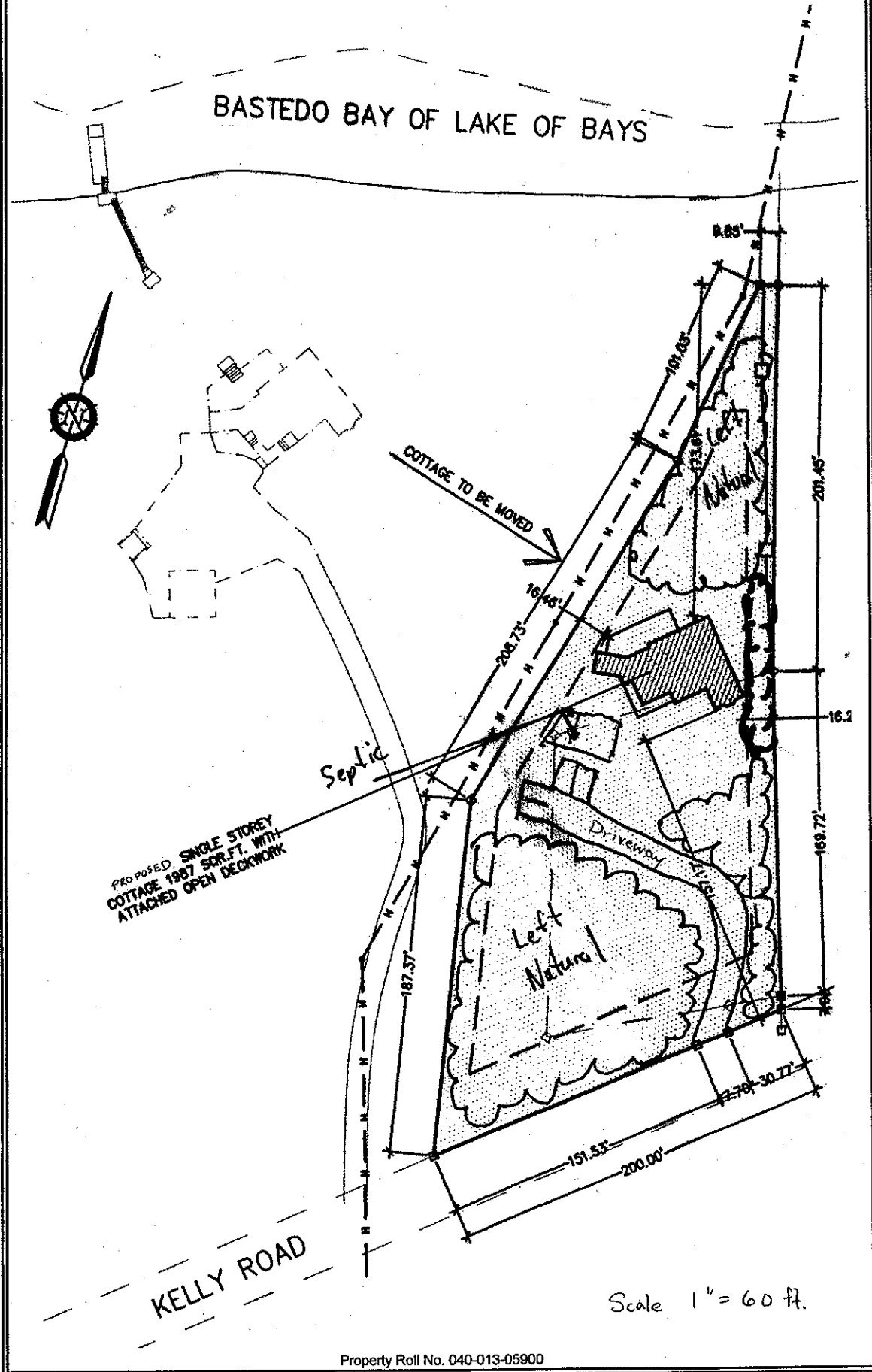
Respectfully submitted by:



Stefan Szczerbak, M.Sc., RPP, MCIP
Planner



KEY MAP
APPLICATION DP 07/09 LOB
Applicant: Tony Cabral
Part Lot 13, Concession 9, McLean Ward



THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

COPY

TO: Mayor & Members of Council
FROM: Stefan Szczerbak, Planner
DATE: January 27th, 2009

RE: **BY-LAW AMENDMENT APPLICATION: Z 01/09 LOB**
 Applicant: Tony Cabral
 Agent: John P. Gallagher
 Part Lot 13, Concession 9, McLean Ward, on Lake of Bays
 Roll No. 040-013-05900
 Civic Address: Kelly Road (no address assigned)

RECOMMENDATION:

That Application Z 01/09 LOB (Cabral) to permit the development of an existing and undersized backlot be **APPROVED** and that By-law 09-15 be given three readings.

ORIGIN:

The property is located within the "Waterfront Residential (WR)" Development Permit Area of By-law 04-180, and is currently vacant. The applicant wishes to develop the property and it does not meet the minimum lot area provisions required for an existing backlot within this designation. Accordingly, a by-law amendment is required to recognize the existing lot area in order to permit development of the property.

The purpose and effect of this by-law amendment will be to re-designate the property from the Waterfront Residential "(WR)" Development Permit Area to the Waterfront Residential with an Exception "WR-E195" Development Permit Area. The effect of the "WR-E195" Development Permit Area will be to seek relief from the requirements of By-law No. 04-180 as follows:

- i) Section 4.21 (Existing Vacant Backlot - Area), decrease from a required 0.8 ha (2 acres) to 0.44 ha (1.08 acres).

BACKGROUND:

Previous Files:	<ul style="list-style-type: none"> • B 10/03 LOB – Lot addition application • C 04/03 LOB – 51(26) Agreement.
Natural Constraints:	<ul style="list-style-type: none"> • n/a
Lake Phosphorus Sensitivity:	<ul style="list-style-type: none"> • Moderate Sensitivity to phosphorus.
LOB Official Plan:	<ul style="list-style-type: none"> • Waterfront.
District Official Plan:	<ul style="list-style-type: none"> • Waterfront.
LOB By-law 04-180:	<ul style="list-style-type: none"> • "Waterfront Residential (WR)" Development Permit Area.

Site Characteristics:

The subject lands are vacant and mainly comprised of existing natural and mature vegetation. The lot is generally level; however it slopes gently in a northerly direction.

Surrounding Uses:

The surrounding lands contain low density residential uses. The boundary for the community of Baysville is located in close proximity (west) to the subject lands.

ANALYSIS:


On May 27th, 2003 the Committee of Adjustment approved application **B10/03 LOB** for the purpose of providing additional land to an existing undersized parcel to permit the future development of this lot. Copies of the former staff report and the Committee's provisional decision have been included for additional information. In addition, as required in the Committee's decision, a 51(26) agreement has been registered onto the title of the lands which requires the owner to enter into a site plan application in accordance with Section 41 of the Planning act prior to any site alteration or vegetation removal on the lot.

Since that time, as the owners did not choose to develop these lands, and as a rezoning was not required under the former Comprehensive Zoning By-law no. 86-50 to develop these lands, Section 4.21 of the Development Permit By-law continues to apply. This Section requires an existing undersized backlot to require a minimum of 0.8 hectares (2 acres) of land with 60 metres of road frontage in order to consider development on any vacant backlot.

As these lands were subject to a former planning approval and subject to the same Official Plan requirements, (Section H.53(c)), staff have no concerns with recommending approval of this application and feel the proposal continues to conform to both the Township and Muskoka Official Plans.

It is noted that as the applicant is required to enter into a Site Plan Agreement with the municipality prior to any site development, the applicants must apply for a Category 1 staff development permit to fulfill this obligation.

Respectfully submitted by,



Stefan Bzcerbak, M.Sc, RPP, MCIP
Planner

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-15**

BEING A BY-LAW TO AMEND BY-LAW 04-180 KNOWN AS THE DEVELOPMENT PERMIT BY-LAW (Cabral)

WHEREAS it is deemed expedient to amend By-law 04-180.

NOW THEREFORE the Council of the Corporation of the Township of Lake of Bays enacts as follows:

1. Schedule "A" to By-law 04-180 as amended, is hereby further amended by re-designating **Part Lot 13, Concession 9, McLean Ward**, now in the Township of Lake of Bays, from the "**Waterfront Residential (WR)**" Development Permit Area to the "**Waterfront Residential with an Exception (WR-E195)**" Development Permit Area, as shown on the attached Schedule "A".
2. Section 7 of By-law 04-180 be amended by the addition of the following:

 "WR-E195:

 On lands designated "WR-E195", as shown on Schedule "A" attached to By-law 09-15, no person shall use any lot or erect, alter or use any building or structure except in accordance with the Waterfront Residential (WR) Development Permit Area designation permitted uses and amended by the following:
 - a) Despite the requirements of Section 4.21, the lot may be developed by way of a Category 1 Staff Development Permit provided that there is a minimum 0.44 hectares (1.08 acres) of lot area, and provided that the proposal complies with all other provisions of the By-law."
3. Schedule "A" hereby forms part of this By-law.
4. All other provisions of By-law 04-180, as amended, shall apply.

READ a FIRST and SECOND time this 27th day of January, 2009.

Mayor

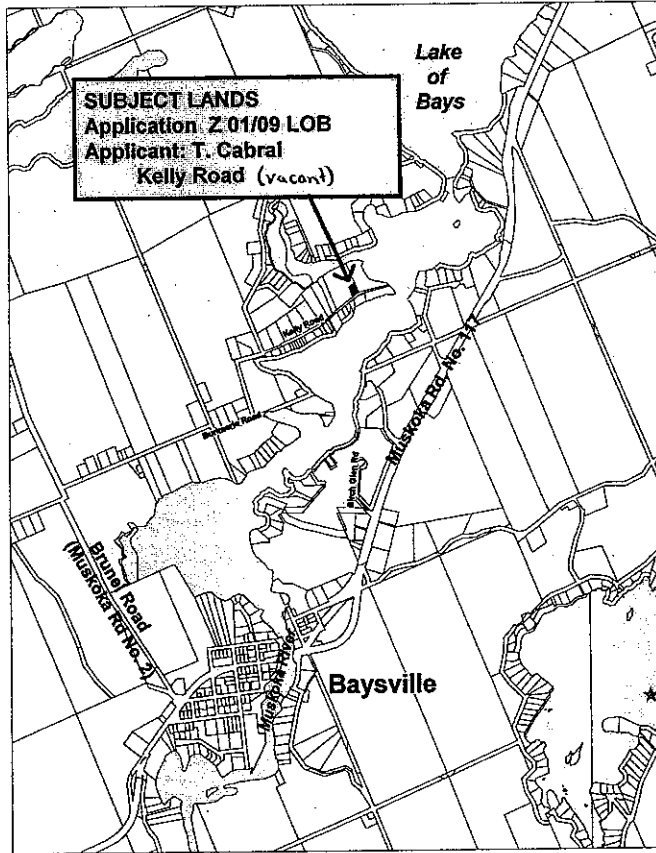
Deputy Clerk

READ a THIRD time and finally passed this 27th day of January, 2009.

Mayor

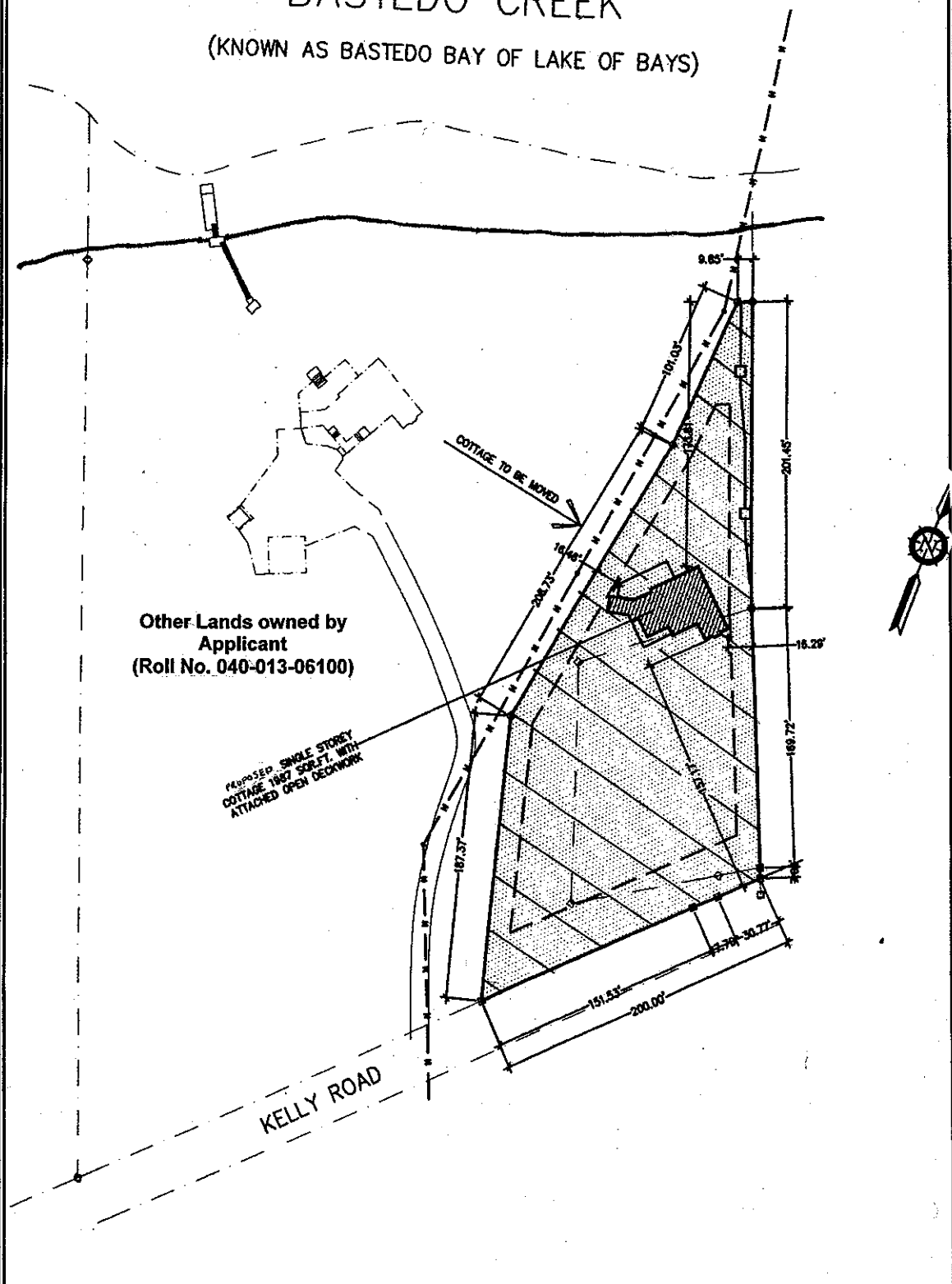
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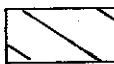
SCHEDULE "A"
By-law Amendment No. 09-15



SCHEDULE "B"
By-law Amendment No. 09-15

BASTEDO CREEK
(KNOWN AS BASTEDO BAY OF LAKE OF BAYS)



 SUBJECT LANDS to be re-designated from the Waterfront Residential "(WR)" Development Permit Area to the Waterfront Residential with an Exception "(WR-E195)" Development Permit Area

requested addition does not conform to Section D.17 and H.20, H.22 and J.41 of the Township Official Plan.

Carried

(c) By-law: 09-14
Files: Z 52/08 LOB (Salter)
Type: Amendment to By-law 04-180
Applicants: Michael & Judith Salter
Civic Address: 1780 Foxpoint Road
Lot/Con/Ward: L 15, C 3, Franklin, on Lake of Bays
Roll Nos.: 010-013-08000

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- Michael & Judith Salter were present to represent the application
- Mr. Szczerbak reviewed the staff report and advised that staff had no concerns with the approval of the application provided that the permitted and remaining shoreline activity area coverage be reduced to what was existing
- There were no questions or comments from Council members
- No one was present in the gallery who wished to speak to the application
- Mayor Peake read the following:

By-law 09-14 being a by-law to amend By-law 04-180 known as the Development Permit By-law (Salter)(1780 Foxpoint Road)(Franklin).

By-law 09-14 was read a first, second and third time and finally passed.

(d) By-law: 09-15
File: Z 01/09 LOB (Cabral)
Type: Amendment to By-law 04-180
Applicants: Tony Cabral
Agent: John P. Gallagher
Civic Address: Kelly Road – vacant – no address assigned
Lot/Con/Ward: L 13, C 9, McLean
Roll No.: 040-013-05900

- Mr. John Gallagher, agent, was present to represent the application
- Mr. Szczerbak reviewed the staff report, and read a letter that the applicant had submitted a letter in response to letters of objection from the following:
 - Steve McBroom & Janice Keay, dated January 22, 2009
 - Susan Pratt & Chris Frostad
 - Janet Graham & Dan Nixon, dated January 21, 2009
 - Elfriede & Wolfgang Amtstaetter, dated January 22, 2009
 - Sharon Wynn, dated January 26, 2009
- Mr. Szczerbak addressed concerns that had been raised by landowners about not receiving circulation of the public notice, and that staff were satisfied that circulation requirements had been met
- Council raised concerns about the presence of a website that advertised cottage rental on the adjacent property owned by the applicant, and that this cottage was proposed to be moved to the subject lands and presumably the same rental program continued there. It was noted that it advertised accommodation for 16 people in five bedrooms and concerns were raised about septic capacity as well as fire safety
- Council also expressed concern about how the cottage would be moved and the amount of vegetation removal to be done and a revegetation program to address this, that any development permit to be issued by

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staff be brought to Council for their review and information, and that the lot have an appropriate entrance from Kelly Road rather than via the existing driveway on the adjacent property, as well as the presence of a westerly facing beach on another of the applicant's properties

- Discussion ensued and it was noted that the property had received a lot addition by way of consent application B 10/03 LOB that had been approved by the Committee of Adjustment, and that the resulting lot area met the criteria of the by-law in place at that time
- Mr. Szczerbak stated that the concerns raised can be addressed when applications are being reviewed by staff, and that when a development permit is applied for it can be bumped to Council, and that perhaps the applicant can proceed with a septic suitability report for Council's review, and that the driveway, vegetation removal and revegetation plans can be addressed through the 51(26) Agreement that was present on the title of the property

Mr. John Gallagher, agent

- He advised that the previous owner had gone through the required process previously, and that the Provincial Policy Statement, the District Official Plan as well as the Township Official Plan have all been addressed and the application meets the requirements
- Respecting the deforestation concern, he noted that the property is 1 ac, the proposed building site is 2000 ft² with an extra 1000 ft² required for septic, and only 4 to 5% of lot is to be cleared, and his client has retained natural vegetation. He noted that Mr. John Purdy, who is well known in the area for moving houses, has advised that the easiest route to move the cottage is to move it across the lot line to the proposed location. He noted that the cottage may not even be seen from Kelly Road given that it will be 200 ft back, and that he has seen more clearing in other properties on Kelly Road
- Regarding the entrance, he noted that the lot has over 200 ft of straight level frontage on Kelly Road, and it would be a requirement of a building permit application to demonstrate an entrance. He addressed the concern regarding rental of the cottage, and advised that he has searched the internet and found over 200 such rentals on Lake of Bays being rented out in a similar fashion, and that unless the Township is prepared to state there are to be no rentals of this type and no longer allows it to occur, this is an irrelevant concern
- He advised that his client intends to use the relocated dwelling as a guest cottage for additional family members, and that regarding access to water, there was a road allowance leading to water that afforded anyone access to the water. Council noted that although it provides access it can't be developed without permission from the Township

The following persons in the gallery spoke to express their objections:

- **Ms Linda Danby, 1037 Kelly Road**
- **Mr. Dan Nixon, 1062 Kelly Road**
- **Ms Janice Keay, 1063 Kelly Road**
- **Ms Janet Graham, 1062 Kelly Road**
- **Mr. Bernie Bax, 1046 Kelly Road**

Their concerns were as follows:

- Use of the adjacent property for rental purposes, and that it would continue to the subject lands once the dwelling moved there
- That the applicant's main parcel and the subject lands have merged, and therefore the subject lands could not be developed
- Development of the southerly small parcel by the applicant to serve this property, as well as the use of the public access beside it, and the swampy nature of this parcel

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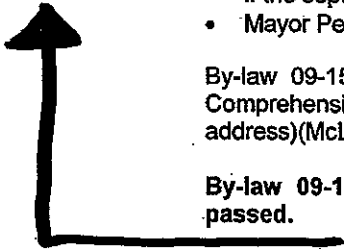
- The use of the allowance at the end of Kelly Road, and that renters would use properties adjacent to it
- Depreciation of property values in the areas of residential compounds such as this one, given high boat and vehicle traffic and no vested interest by renters, etc
- That adjacent properties will be looking into a cleared rental compound
- Why a decision made in 2003 regarding consent application B 10/03 LOB had a bearing on Council's decision today

Further Council Deliberations:

- Mr. Szczerbak advised that the same official plan policy, H.53, was in place in 2003, and at that time the resulting lot configuration worked with the by-law of the day, and that the consent agreement on title indicates that the lot has development rights. Although the applicants may own several more properties that they allow people to use, he advised that it did not have a bearing on this property
- Mr. Stephen Watson, Chief Building Official, was present and he advised that before a building permit was issued, his department would need to verify that an entrance permit had been received, and that the septic system could accommodate the new dwelling, and if there were complaints received from the public they would investigate to determine if the septic was being use appropriately
- Mayor Peake read the following:

By-law 09-15 being a by-law to amend By-law 04-181 known as the Comprehensive Zoning By-law (Cabral)(Kelly Road – vacant – no address)(McLean).

By-law 09-15 was read a first, second and third time and finally passed.



(e) By-law: 09-16
File: Z 02/09 LOB (Henry)
Type: Amendment to By-law 04-180
Applicant: Judith Anne Henry
Agent: Pat Land
Civic Address: 1015 Lake of Bays Marine Road
Lot/Con/Ward: L 7, C 1, Franklin, on Lake of Bays
Roll No.: 030-015-11000

- No one was present to represent the application
- Mr. Szczerbak reviewed the staff report and noted that there appeared to be an additional shed on the property, and that the applicant had been asked about this, but staff had not received a response regarding this. He advised that the current sketch and numbers in the by-law do not reflect the shed, and that if it was found to be on the property, the applicant would either have to return to council for an increase in lot coverage to allow the shed, or remove the shed
- There were no questions or comments from Council members
- No one was present in the gallery who wished to speak to the application
- Mayor Peake read the following:

By-law 09-16 being a by-law to amend By-law 04-180 known as the Development Permit By-law (Henry)(1015 Lake of Bays Marine Road)(Franklin).

By-law 09-16 was read a first, second and third time and finally passed.